

**STATE OF MONTANA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER NO. 18-2015**

**EXECUTIVE ORDER ESTABLISHING AN INTERIM
MONTANA CLEAN POWER PLAN ADVISORY COUNCIL**

WHEREAS, from mining high quality coal for Midwestern power plants to generating electricity for western markets from water, coal and wind energy production provides reliable, affordable energy and good-paying jobs for Montana families. Montana is fortunate to have some of the nation's largest coal reserves, highest rated wind potential and a legacy of hydroelectric power;

WHEREAS, Montana's vast energy resources are used to generate electricity that is both consumed in state and exported far beyond our borders;

WHEREAS, Montanans place a very high premium on preserving our environment, outdoor heritage, and communities. Our clean air, water and pristine lands are the bedrock for agriculture and tourism, our largest economic sectors;

WHEREAS, Montanans see the effects of climate change on our everyday lives, including increased wildfires and smoky valleys, lower stream flows and shorter fishing seasons, and enormous rains and crop damage;

WHEREAS, all Montanans will be affected by the success or failure of our efforts to address climate change, especially our kids and grandkids;

WHEREAS, Montanans have always been pragmatic and forward thinking when it comes to addressing climate change and promoting economic prosperity, including, among other measures, the adoption of a Renewable Portfolio Standard to drive economic growth, and passage of strict carbon capture and sequestration standards that limit rate recovery for new coal-fueled power plants;

WHEREAS, the U.S. Environmental Protection Agency (EPA) has issued final regulations under Section 111(d) of the federal Clean Air Act ("§ 111(d)") addressing carbon dioxide (CO₂) emissions from existing fossil fuel-fired electric power plants;

WHEREAS, the EPA regulations require Montana's coal-fired power plants to limit emissions of CO₂ to a certain rate, or tons of annual emissions, by the year 2030, with an interim emissions goal to be achieved on average over the years 2022-2029;

WHEREAS, under federal law, Montana is charged with the responsibility to prepare a Montana plan to implement the § 111(d) emission standards within our state's borders, and if Montana fails to do so, EPA will issue a federal plan that tells Montana what to do regarding its energy future;

WHEREAS, Montanans have a significant stake in how the § 111(d) rules are implemented in Montana, with nine existing coal-fired power plant units that are directly regulated by the rules and that are an important part of the Montana economy, providing reliable power, substantial state and local tax revenues and good-paying jobs;

WHEREAS, in addition to those Montanans whose well-being directly depends upon the operation of the Montana coal-fired power plants regulated under the § 111(d) rules, the lives of many other Montanans will be impacted by the implementation of the rules, including:

- those who work in the coal industry that supplies coal to power plants;
- those who work in the renewables industry, including solar and wind, among others;
- electricity customers who draw their power from sources outside the state; and
- Native American sovereign nations who seek economic opportunity from coal or renewables;

WHEREAS, coal will continue to be a critical part of the nation's energy portfolio for years to come, and increasing electricity demand will ensure that we will need both carbon-based and renewable sources of energy, and not enough is being done in this country to advance clean-coal technologies;

WHEREAS, Montana's official state energy policy, adopted in statute (§ 90-4-1001, MCA), expressly recognizes the need for lower carbon uses of coal to mitigate greenhouse gases, and the importance of capturing and utilizing carbon dioxide for commercial purposes, including enhanced oil recovery;

WHEREAS, I have supported policies to incentivize technologies for lower carbon uses of coal, including:

- signing House Bill 156 into law in 2015, which provides favorable tax treatment for investments in carbon capture, sequestration, and transportation;
- cosponsoring with Wyoming Governor Matt Mead a Western Governors' Association resolution calling for stronger policies and incentives to advance enhanced oil recovery and CO₂ capture at power plants and other industrial sources; and
- supporting funding for pioneering research at Montana's universities and colleges.

WHEREAS, the EPA § 111(d) final rules have been challenged in court by 27 states, including Montana. It is important for the courts to clarify the many questions people have raised. However, we cannot wait around to see if the lawyers win or lose in court. If the courts do not enjoin those rules the EPA will draft a federal plan directing Montana's energy future unless Montanans prepare a Montana plan and submit it by the required deadline;

WHEREAS, given that the final rule imposes upon Montana the largest emission cut of any state, and the largest change of any state from the proposed rule to the final rule, I do not believe that the EPA § 111(d) final rule is fair for our state. I do believe that there are many choices that Montanans may make to keep our state's energy destiny in our own hands and find the best path forward for our state, including the consideration of participating in regional planning;

WHEREAS, Montanans have repeatedly demonstrated that they can come together, roll up their sleeves, and tackle difficult problems to find solutions that work best for the interests of our state;

WHEREAS, the EPA regulations require that by September 2016, I submit to EPA either a final Montana plan or an initial submittal that requests an extension of the deadline, with the maximum extension allowed to September 6, 2018;

WHEREAS, notwithstanding the regulatory deadlines, early action to develop new sources of renewable energy and improve energy efficiency in low-income communities may result in tangible benefits to the State of Montana;

WHEREAS, the broad scope of the EPA regulations and the potential significant adverse impacts of both climate change and the regulations on the economy of the State of Montana require that Montanans from diverse interests and backgrounds work together to recommend a Montana plan; and

WHEREAS, it is appropriate and beneficial to establish the Governor's Interim Montana Clean Power Plan Advisory Council (Council).

NOW, THEREFORE, I, STEVE BULLOCK, Governor of the State of Montana, according to the authority vested in me under the Constitution and the laws of the State of Montana, do hereby issue Executive Order No. 18-2015 and provide for the creation of the Interim Montana Clean Power Plan Advisory Council as follows:

PURPOSE:

1. The purpose of the Council is to gather information and provide to the Montana Department of Environmental Quality (DEQ) by July 6, 2016, recommendations on policies and actions necessary for the State of Montana to file an Initial Submittal with the EPA and obtain an extension under the EPA § 111(d) rules.

DUTIES:

1. In preparing its recommendations, the Council shall review applicable memoranda and guidance regarding the requirements for making an Initial Submittal to EPA, and such other information, including rate and mass-based compliance tools, economic and reliability modeling, and the work of other states and entities, which may be pertinent to achieving its Purpose.
2. The recommendations of the Council must be focused on addressing the following issues:
 - a. Demonstrating Montana's ability to undertake the steps and processes necessary to timely submit a final plan by September 6, 2018;

- b. Identifying the plan approach or approaches being considered, addressing such topics as scope (state-only, regional, or national), measure (rate or mass), type (emission standards or state measures), and methods (trading/allowances/credits);
 - c. Providing an explanation of the need for additional time to submit a final plan, such as the time required to coordinate multi-state efforts, or other appropriate explanation;
 - d. Demonstrating meaningful stakeholder involvement and public comment, including engagement of vulnerable communities;
 - e. Stating Montana's intentions regarding participation in the Clean Energy Incentive Program, which can provide credits/allowances for early renewable or efficiency projects.
- 3. The duties of the Council are solely advisory.
- 4. The Council will provide its recommendations to the Montana DEQ no later than July 6, 2016.
- 5. The Council shall provide opportunities for public comment at each of its meetings.

COMPOSITION AND ORGANIZATION

- 1. The Council members shall be appointed by and serve at the pleasure of the Governor or until July 6, 2016, whichever is later.
- 2. The Council shall be comprised of 20-26 members representing the various geographic areas, non-governmental organizations, and industries of the State regulated or impacted by the implementation of the EPA § 111(d) rules within the State of Montana.
- 3. The Office of the Governor will assist in staffing this Council. My office may rely on the services of my Cabinet in staffing this Committee.
- 4. The Council members shall include representation from the following categories:
 - a. Coal-fired power plant owners and investor-owned utilities;
 - b. Conservation and Environment;
 - c. Hunters/anglers;
 - d. Electric cooperatives and large industrial electric customers;
 - e. Organized labor;
 - f. Renewable energy;
 - g. Energy efficiency;
 - h. Tribal;
 - i. Coal mining;
 - j. Public Service Commission and Montana Consumer Counsel; and
 - k. State Legislature.
- 5. Applications to serve on the Council shall be received by the Governor's Office no later than November 30, 2015. Application reflects a commitment to work in a collaborative manner with other appointees, to listen and respect all viewpoints, to work toward the Purpose of the

Council and no other, and to commit the time necessary to be a productive Council member, including the attendance of meetings.

6. The Governor will designate a Chair or Co-Chairs. The Council may establish procedural bylaws to aid it in the performance of its duties.
7. The Council may establish subcommittees comprised of members of the Council to aid it in the performance of its duties.
8. The Council is attached to the Montana DEQ for administrative purposes, and the DEQ shall provide staffing. The Director of the DEQ shall retain an independent contractor to provide facilitation assistance to the Council and may retain such other outside assistance as the Director determines necessary.

OTHER

1. The Council may request consultation, information, and technical expertise from Directors or their designees of state agencies and entities, including but not limited to, the Montana Department of Environmental Quality, Montana Public Service Commission, and Montana Consumer Counsel, as well as the Montana Legislature, regarding any matter necessary to fully inform its Purpose.
2. The Council may request comments, information, and technical expertise from such other sources as it deems necessary to fully inform its Purpose, including the Northwest Power and Conservation Council, university system, other state and federal agencies, and members of the public.

COMPENSATION

1. Council members eligible for compensation under § 2-15-122(5), MCA, shall be compensated in an amount to be determined by the Director of the DEQ, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of Council duties. All Council members shall be reimbursed for travel expenses pursuant to § 2-15-122(5), MCA.

DURATION

1. The Council shall cease to exist on July 6, 2016.

This Order is effective immediately.



GIVEN under my hand and the GREAT SEAL of
the State of Montana this 12th day of
November, 2015.

A handwritten signature in blue ink, appearing to be "Steve Bullock", written over a horizontal line.

STEVE BULLOCK, Governor

ATTEST:

A handwritten signature in blue ink, appearing to be "Linda McCulloch", written over a horizontal line.

LINDA MCCULLOCH, Secretary of State

for: